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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **TIMOTHY ROLEN GHOLSTON**  
12 **428 Washington Ave.**  
13 **Richmond, CA 94604**

14 **Registered Nurse License No. 270413**  
**Public Health Nurse Certificate No. 29655**

15 Respondent.

*Case No 2013-774*

**A C C U S A T I O N**

16  
17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about August 31, 1976, the Board of Registered Nursing issued Registered  
24 Nurse License Number 270413 to Timothy Rolen Gholston (Respondent). The Registered Nurse  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on December 31, 2013, unless renewed.

27 3. On or about February 27, 1980, the Board of Registered Nursing issued Public  
28 Health Nurse Certificate Number 29655 to Timothy Rolen Gholston (Respondent). The Public

1 Health Nurse Certificate was in full force and effect at all times relevant to the charges brought  
2 herein and will expire on December 31, 2013, unless renewed.

3 JURISDICTION

4 4. This Accusation is brought before the Board of Registered Nursing (Board),  
5 Department of Consumer Affairs, under the authority of the following laws. All section  
6 references are to the Business and Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
9 that the Board may discipline any licensee, including a licensee holding a temporary or an  
10 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
11 Nursing Practice Act.

12 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
13 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
14 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the  
15 Code, the Board may renew an expired license at any time within eight years after the expiration.

16 7. Section 118, subdivision (b), of the Code provides that the  
17 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of  
18 jurisdiction to proceed with a disciplinary action during the period within which the license may  
19 be renewed, restored, reissued or reinstated.

20 8. Section 2761 of the Code states:

21 "The board may take disciplinary action against a certified or licensed nurse or deny an  
22 application for a certificate or license for any of the following:

23 ...

24 "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
25 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
26 conclusive evidence thereof.

27 ...

28 9. Section 2762 of the Code states:

1 "In addition to other acts constituting unprofessional conduct within the meaning of this  
2 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
3 chapter to do any of the following:

4 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
5 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
6 administer to another, any controlled substance as defined in Division 10 (commencing with  
7 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
8 defined in Section 4022.

9 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
16 or the possession of, or falsification of a record pertaining to, the substances described in  
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
18 thereof.

19 ...

20 10. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
21 revoke a license on the ground that the licensee has been convicted of a crime substantially  
22 related to the qualifications, functions, or duties of the business or profession for which the  
23 license was issued.

24 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
25 administrative law judge to direct a licentiate found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
28

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
2 included in a stipulated settlement.

3 FIRST CAUSE FOR DISCIPLINE

4 (Substantially Related Convictions)

5 12. Respondent is subject to disciplinary action under sections 490 and 2761(f) of the  
6 Code in that Respondent was convicted of crimes that are substantially related to the duties,  
7 functions, or qualifications of a registered nurse and public health nurse. The circumstances are  
8 as follows:

9 a. On or about December 1, 2010, in Alameda County Superior Court Case No. 557898,  
10 Respondent was convicted of violating Vehicle Code § 23152(a), driving under the influence of  
11 alcohol or drugs. The circumstances leading to Respondent's conviction are as follows: On or  
12 about December 16, 2009, Respondent drove a vehicle under the influence of marijuana and  
13 alcohol. Respondent was also in possession of cocaine.

14 b. On or about December 1, 2010, in Alameda County Superior Court Case No. 564255,  
15 Respondent was convicted of violating Vehicle Code § 23152(b), driving with a blood alcohol  
16 content of .08% or higher. The circumstances leading to Respondent's conviction are as follows:  
17 On or about August 6, 2010. Respondent drove a vehicle with a blood alcohol content of .13%.

18 c. On or about September 13, 2006, in Alameda County Superior Court Case No.  
19 513835, Respondent was convicted of violating Health and Safety Code § 11350(b), possession  
20 of a controlled substance, cocaine. The circumstances leading to Respondent's conviction are as  
21 follows: On or about September 6, 2005, Respondent possessed cocaine in violation of Health  
22 and Safety Code § 11350(b).

23 SECOND CAUSE FOR DISCIPLINE

24 (Convictions Involving Drugs and Alcohol)

25 13. Respondent is subject to disciplinary action under section 2762(c) of the Code in that  
26 Respondent was convicted of crimes involving controlled substances and alcohol. The  
27 circumstances are described in paragraph 12, above.

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Dangerous Use of Drugs and Alcohol)

3 14. Respondent is subject to disciplinary action under section 2762(b) of the Code in that  
4 Respondent used controlled substances and alcohol in a manner dangerous or injurious to himself  
5 or others, or the public. The circumstances are described in paragraph 12, above.

6 FOURTH CAUSE FOR DISCIPLINE

7 (Drug Possession)

8 15. Respondent is subject to disciplinary action under section 2762(a) of the Code in that  
9 Respondent possessed controlled substances in violation of the law. The circumstances are  
10 described in paragraph 12, above.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License Number 270413, issued to  
15 Timothy Rolan Gholston

16 2. Revoking or suspending Public Health Nurse Certificate Number 29655, issued to  
17 Timothy Rolan Gholston;

18 3. Ordering Timothy Rolan Gholston to pay the Board of Registered Nursing the  
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
20 Professions Code section 125.3;

21 4. Taking such other and further action as deemed necessary and proper.  
22

23 DATED: March 15, 2013

Stacie Ben

24 for LOUISE R. BAILEY, M.ED., RN  
25 Executive Officer  
26 Board of Registered Nursing  
27 Department of Consumer Affairs  
28 State of California  
Complainant

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